

**Proposed Substitute  
Bill No. 5237**

LCO No. 3049

**AN ACT CONCERNING FAIR CHANCE EMPLOYMENT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 31-51i of the general statutes is repealed and the  
2       following is substituted in lieu thereof (*Effective October 1, 2016*):

3       (a) For the purposes of this section, "employer" means any person  
4       engaged in business who has one or more employees, including the  
5       state or any political subdivision of the state.

6       (b) No employer or employer's agent, representative or designee  
7       may require an employee or prospective employee to disclose the  
8       existence of any arrest, criminal charge or conviction, the records of  
9       which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

10       (c) An employment application form that contains any question  
11       concerning the criminal history of the applicant and is permissible  
12       pursuant to subsection (i) or subsection (l) of this section shall contain  
13       a notice, in clear and conspicuous language: (1) That the applicant is  
14       not required to disclose the existence of any arrest, criminal charge or  
15       conviction, the records of which have been erased pursuant to section  
16       46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure  
17       pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to  
18       a finding of delinquency or that a child was a member of a family with

19 service needs, an adjudication as a youthful offender, a criminal charge  
20 that has been dismissed or nolle, a criminal charge for which the  
21 person has been found not guilty or a conviction for which the person  
22 received an absolute pardon, and (3) that any person whose criminal  
23 records have been erased pursuant to section 46b-146, 54-76o or 54-  
24 142a shall be deemed to have never been arrested within the meaning  
25 of the general statutes with respect to the proceedings so erased and  
26 may so swear under oath.

27 (d) [No] Except for a position for which any provision of the general  
28 statutes specifically disqualifies a person from employment by an  
29 employer because of a prior conviction for a crime. No employer or  
30 employer's agent, representative or designee shall deny employment  
31 to a prospective employee solely on the basis that the prospective  
32 employee had (1) a prior arrest, criminal charge or conviction, the  
33 records of which have been erased pursuant to section 46b-146, 54-76o  
34 or 54-142a, (2) a prior arrest, criminal charge or conviction for a  
35 misdemeanor if five years have elapsed from the prospective  
36 employee's date of release from the custody of the Commissioner of  
37 Correction, (3) a prior arrest, criminal charge or conviction for a felony  
38 if ten years have elapsed from the prospective employee's date of  
39 release from the custody of the Commissioner of Correction, or [that  
40 the prospective employee had] (4) a prior conviction for which the  
41 prospective employee has received a provisional pardon or certificate  
42 of rehabilitation pursuant to section 54-130a, or a certificate of  
43 rehabilitation pursuant to section 54-108f.

44 (e) [No] Except for a position for which any provision of the general  
45 statutes specifically disqualifies a person from employment by an  
46 employer because of a prior conviction for a crime. No employer or  
47 employer's agent, representative or designee shall discharge, or cause  
48 to be discharged, or in any manner discriminate against, any employee  
49 solely on the basis that the employee had, prior to being employed by  
50 such employer, (1) an arrest, criminal charge or conviction, the records  
51 of which have been erased pursuant to section 46b-146, 54-76o or 54-  
52 142a, (2) a prior arrest, criminal charge or conviction for a

53 misdemeanor if five years have elapsed from the employee's date of  
54 release from the custody of the Commissioner of Correction, (3) a prior  
55 arrest, criminal charge or conviction for a felony if ten years have  
56 elapsed from the employee's date of release from the custody of the  
57 Commissioner of Correction, or [that the employee had, prior to being  
58 employed by such employer,] (4) a prior conviction for which the  
59 employee has received a provisional pardon or certificate of  
60 rehabilitation pursuant to section 54-130a, or a certificate of  
61 rehabilitation pursuant to section 54-108f.

62 (f) [The] Any portion of an employment application form [which]  
63 that contains information concerning the criminal history record of an  
64 applicant or employee and is permissible pursuant to subsection (i) or  
65 subsection (n) of this section shall only be available to the members of  
66 the personnel department of the company, firm or corporation or, if  
67 the company, firm or corporation does not have a personnel  
68 department, the person in charge of employment, and to any employee  
69 or member of the company, firm or corporation, or an agent of such  
70 employee or member, involved in the interviewing of the applicant.

71 (g) Notwithstanding the provisions of subsection (f) of this section,  
72 [the] any portion of an employment application form [which] that  
73 contains information concerning the criminal history record of an  
74 applicant or employee and is permissible pursuant to subsection (i) or  
75 subsection (l) of this section may be made available as necessary to  
76 persons other than those specified in said subsection (f) by:

77 (1) A broker-dealer or investment adviser registered under chapter  
78 672a in connection with (A) the possible or actual filing of, or the  
79 collection or retention of information contained in, a form U-4 Uniform  
80 Application for Securities Industry Registration or Transfer, (B) the  
81 compliance responsibilities of such broker-dealer or investment  
82 adviser under state or federal law, or (C) the applicable rules of self-  
83 regulatory organizations promulgated in accordance with federal law;

84 (2) An insured depository institution in connection with (A) the  
85 management of risks related to safety and soundness, security or

86 privacy of such institution, (B) any waiver that may possibly or  
87 actually be sought by such institution pursuant to section 19 of the  
88 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or  
89 actual obtaining by such institution of any security or fidelity bond, or  
90 (D) the compliance responsibilities of such institution under state or  
91 federal law; and

92 (3) An insurance producer licensed under chapter 701a in  
93 connection with (A) the management of risks related to security or  
94 privacy of such insurance producer, or (B) the compliance  
95 responsibilities of such insurance producer under state or federal law.

96 (h) (1) For the purposes of this subsection: (A) "Consumer reporting  
97 agency" means any person who regularly engages, in whole or in part,  
98 in the practice of assembling or preparing consumer reports for a fee,  
99 which reports compile and report items of information on consumers  
100 that are matters of public record and are likely to have an adverse  
101 effect on a consumer's ability to obtain employment, but does not  
102 include any public agency; (B) "consumer report" means any written,  
103 oral or other communication of information bearing on an individual's  
104 credit worthiness, credit standing, credit capacity, character, general  
105 reputation, personal characteristics or mode of living; and (C)  
106 "criminal matters of public record" means information obtained from  
107 the Judicial Department relating to arrests, indictments, convictions,  
108 outstanding judgments, and any other conviction information, as  
109 defined in section 54-142g.

110 (2) Each consumer reporting agency that issues a consumer report  
111 that is used or is expected to be used for employment purposes and  
112 that includes in such report criminal matters of public record  
113 concerning the consumer shall:

114 (A) At the time the consumer reporting agency issues such  
115 consumer report to a person other than the consumer who is the  
116 subject of the report, provide the consumer who is the subject of the  
117 consumer report (i) notice that the consumer reporting agency is  
118 reporting criminal matters of public record, and (ii) the name and

119 address of the person to whom such consumer report is being issued;

120 (B) Maintain procedures designed to ensure that any criminal  
121 matter of public record reported is complete and up-to-date as of the  
122 date the consumer report is issued, which procedures shall, at a  
123 minimum, conform to the requirements set forth in section 54-142e.

124 (3) This subsection shall not apply in the case of an agency or  
125 department of the United States government seeking to obtain and use  
126 a consumer report for employment purposes if the head of the agency  
127 or department makes a written finding pursuant to 15 USC  
128 1681b(b)(4)(A).

129 (i) (1) Except as otherwise provided in subdivision (2) of this  
130 subsection, no employer or an employer's agent, representative or  
131 designee may require any employee or prospective employee to  
132 complete an employment application form that contains any question  
133 concerning the criminal history of the applicant until such time as such  
134 employer, agent, representative or designee has made a conditional  
135 offer of employment to such applicant. For purposes of this subsection,  
136 a "conditional offer of employment" means an employer's offer of  
137 employment that is contingent upon an employee's or prospective  
138 employee's successful completion of an employer's application process  
139 which may include, but need not be limited to, drug testing, a criminal  
140 history records check or the production of valid licensure necessary for  
141 such employment.

142 (2) Notwithstanding the provisions of subdivision (1) of this  
143 subsection, an employer may require (A) any current or prospective  
144 correction officer, (B) any current or prospective judicial marshal, state  
145 marshal, juvenile or adult probation officer, juvenile detention officer  
146 or investigator employed by or seeking employment with the Division  
147 of Criminal Justice, (C) any member or prospective member of (i) a  
148 state or municipal police force, (ii) the police force for the constituent  
149 units of the state system of higher education or the independent  
150 institutions of higher education in this state, (iii) the police force of  
151 Bradley International Airport, or (iv) the Office of the State Capitol

152 Police, or (D) any employee or prospective employee of (i) a broker-  
153 dealer or investment adviser registered under chapter 672a, (ii) an  
154 insured depository institution, or (iii) an insurance producer licensed  
155 under chapter 701a, as described in subdivisions (1) to (3), inclusive, of  
156 subsection (g) of this section, to complete an employment application  
157 form that contains questions concerning the applicant's criminal  
158 history.

159 (j) Any employee or prospective employee may file a complaint  
160 with the Labor Commissioner alleging violations of subsection (i) of  
161 this section. Upon receipt of the complaint, the commissioner shall  
162 investigate such complaint and may hold a hearing. After the hearing,  
163 the commissioner shall send each party a written copy of his or her  
164 decision. Any employee or prospective employee who prevails in such  
165 hearing shall be awarded reasonable attorney's fees and costs.

166 (k) Any party aggrieved by the decision of the commissioner may  
167 appeal the decision to the Superior Court in accordance with the  
168 provisions of chapter 54.

169 (l) Notwithstanding the provisions of subsections (b) to (i),  
170 inclusive, of this section an employer may require an employee or  
171 prospective employee to disclose the existence of any arrest, criminal  
172 charge or conviction if such disclosure is required under any  
173 applicable state or federal law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	31-51i